

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE FERRERO LITIGATION

CASE NO. 11-CV-205-H (KSC)

**ORDER DENYING  
PLAINTIFFS' REQUEST FOR  
AN APPEAL BOND**

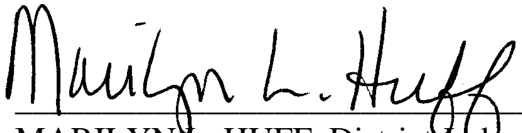
On October 11, 2012, Plaintiffs filed a motion to impose an appeal bond on class objectors Michael Hale, Courtney Drey, and Andrea Pridham pursuant to Rule 7 of the Federal Rules of Appellate Procedure. (Doc. No. 140.) On October 29, 2012, Ms. Drey and Ms. Pridham filed an opposition. (Doc. No. 142.) Plaintiffs filed their reply on November 6, 2012. (Doc. No. 147.) On November 7, 2012, Mr. Hale filed his opposition that the Court ordered to be filed nunc pro tunc to the date received. CivLR 1.1(d). Pursuant to the Court's discretion under Local Civil Rule 7.1(d)(1), the Court determined that this matter is suitable for decision without oral argument. (Doc. No. 141.)

Plaintiffs request that the Court impose an appeal bond in the amount of \$21,970.12. (Doc. No. 140 at 1.) In exercising its discretion under Rule 7, the Court concludes that an appeal bond is not necessary as Plaintiffs have provided insufficient evidence that there is a risk of nonpayment by Objectors should Plaintiffs be awarded costs on appeal. Fleury v. Richemont North America, Inc., No. 05-4525, 2008 U.S. Dist. LEXIS 88166, at \*17-18 (N.D. Cal. Oct. 21, 2008) (noting that the purpose of Rule 7 is to protect an appellee against the risk

1 of nonpayment by an unsuccessful appellant). Accordingly, the Court denies Plaintiffs'  
2 motion without prejudice to Plaintiffs seeking an award of costs and fees from the Ninth  
3 Circuit, if so provided under the Federal Rules of Appellate Procedure or the law.

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5 **IT IS SO ORDERED.**

6 DATED: November 9, 2012

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8 MARILYN L. HUFF, District Judge  
9 UNITED STATES DISTRICT COURT  
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